

FREQUENTLY ASKED QUESTIONS

WHAT?

The Association has launched two new suites of insurances:

- **Charterers' Liability Insurance**
- **Additional Insurances**

These two suites bring together insurance heads of cover with which Members will be familiar and wraps each of them in a jacket of general terms and conditions which apply to both programmes.

WHY?

The Association's aim has been to

- bring a new clarity, accuracy and consistency to the insuring clauses, wordings and terms and conditions it employs across the spectrum of such covers that the Club offers; and
- introduce a new house style to the coverages that sit outside the mutual / poolable realm of the Club's core business.

WHEN?

For most such coverages from 20 February 2020 or on renewal.

However, the Club is aware that many Member assureds have grown familiar with longstanding wordings and it is therefore willing, in this first year of the introduction of the new suites of insurances, to agree to respond to a claim as though the 2019/2020 wording applied where exceptionally the new wording fails to respond to a claim which would have been recoverable under the former wording.

HOW?

Cover is evidenced by a *Certificate of Insurance*. This is to distinguish the coverage from that evidenced by *Certificates of Entry* and is to signal that this coverage from the Club is in a different 'silo' from its mutual / poolable business and is protected by different reinsurance arrangements.

The *Certificate of Insurance* broadly follows a London Market format, again highlighting that the insurance is on a commercial rather mutual basis; among other changes you will note is that it refers to the 'Assured' rather than the 'Member' and records information on which the Association has relied in framing the cover.

WHERE?

The *Charterers' Liability Insurance* and *Additional Insurances* are available on the Association's website under 'Rule Books'. The language of these suites of insurance echoes that of the Association's *Rules of Class 3* but is stripped of the latter's references to mutuality and the Pooling Agreement of the International Group of P&I Associations, making it easier to follow. The wordings will be reviewed, refined and updated as they respond to Members' needs.

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WHAT DOES THE ASSOCIATION'S CHARTERERS' LIABILITY INSURANCE COVER?

Coverage includes all the heads of cover you would expect:

- Charterers' Liability Insurance including:
 - liability for damage to hull
 - liability to cargo
 - liability for illness, death of or injury of third parties
 - liability for damage to third party property
 - war risks extension
- Charterers' bunkers (limited conditions or all risks)
- Charterers' liability as cargo owner extension

IS THE COVERAGE OFFERED AS A MUTUAL RISK?

While the Association can offer P&I cover to charterers as a standard poolable risk, the other elements of charterers' cover cannot be pooled under the Pooling Arrangements of the International Group of P&I Associations. Since 2008/2009 the Association has offered 'Charterers CSL Cover' on a standalone basis outside those Pooling Arrangements; and the *Charterers' Liability Insurance* is a further development of this concept outside the mutual system.

DOES THE COVERAGE STILL REFERENCE THE P&I RULES?

Although the Association's authority to offer *Special Cover for Charterers* stems from Rule 19(24) of the *Rules of Class 3*, the coverage itself is set out in a bespoke suite of insurances available on the Association's website:

Publications \ Rule Books \ Charterers' Liability Insurance 2020

HOW IS THE CHARTERERS' LIABILITY INSURANCE STRUCTURED?

The *Charterers' Liability Insurance* is in six parts:

- Part I RISKS COVERED
This establishes the general framework of the insurance, determines the *Certificate of Insurance* as the evidence of cover; and sets out the Association's position on costs and expenses and sue and labour
- Part II CHARTERERS' INSURANCES
These sections set out the scope of cover available to charterer assureds.
- Part III EXTENSIONS TO COVER
This section extends the cover available under Parts I and II to include war risks
- Part IV EXCLUSIONS, LIMITATIONS AND WARRANTIES
This section sets out the necessary restrictions on the scope of cover provided under Parts I, II and III
- Part V CLAIMS
Describes the rights and responsibilities of the Assured and the Association with reference to claims.

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Part VI GENERAL TERMS & CONDITIONS

Describes the legal framework and background to the insurance.

Parts IV, V and VI draw heavily on the *Rules of Class 3* and help to ensure a consistency of approach in the Associations' management of cover whether it be for a Member under its *Rules of Class 3* or an Assured under its *Charterers' Liability Insurance*.

HAS THE NATURE OF THE COVER CHANGED?

No. The scope of the coverage remains the same and the P&I sections of cover still draw on the Association's *Rules of Class 3*. However, those *Rules*, written for shipowners, can be quite difficult to construe for charterers in some instances; and so, the *Charterers' Liability Insurance* wording has been tailored to recognise the particular contractual and trading requirements of charterers. As noted in Part II Section A of the *Charterers' Liability Insurance*:

It is in the nature of the exposures which a charterer faces and to which a charterer is subject that claims can arise either directly against the charterer or indirectly as a claim against another party with an interest in the ship, typically the shipowner, and/or the cargo carried on board the ship. The heads of cover and detailed clauses which follow should therefore be construed as covering one or other of these scenarios and, in many instances, both.

ARE THERE ANY CHANGES IN THE WORDING THAT I WILL NOTICE?

Yes. As the Club can now reference the bespoke *Charterers' Liability Insurance* document on its website, it no longer needs to recite lengthy clauses in its new evidence of cover, the *Certificate of Insurance*; accordingly, the *Certificate* is briefer, more succinct and can focus on the variables in an Assured's cover.

Furthermore, as the *Certificate of Insurance* expressly incorporates the clauses of the *Charterers' Liability Insurance* wording, there is no need to include 'for the avoidance of doubt' clauses, stating what is not covered; in this way the *Certificate of Insurance* functions more like a commercial market document.

HAS THE CLUB MADE ANY OTHER CHANGES?

The rolling out of the new *Charterers' Liability Insurance* was an opportunity also to remove anomalies in the way that the Club expressed its cover for charterers. For example, it was common for a *Certificate of Entry* to include the following term:

This entry is to indemnify the member in accordance with Rule 19(24)(A)(P and I). It is hereby noted that cover under Rule 19(9)(A) (Liabilities arising from Collisions - Collision Clause) is extended to include claims in respect of 4/4ths collision liability

a clause that might have been thought necessary to 'convert' a cover term for a shipowner into one relevant for a charterer; however, collision cover for a charterer has to respond to a claim from the shipowner or the shipowner's insurers, however it is calculated or presented, and Part II Section A Clause 10 *Liabilities arising from collisions* of the *Charterers' Liability Insurance* sets this out simply, without the need for interpretation.

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WHAT DO THE ASSOCIATION'S ADDITIONAL INSURANCES COVER?

The Association has assembled a range of additional insurances based on its accumulated experience of Members' requests for cover which fall outside standard P&I cover:

- Deviations and other exceptions to coverage in respect of Cargo (*ad hoc*)¹
 - Deviation
 - Discharge at a port or place other than that provided in the contract of carriage
 - *ad valorem* bills of lading
 - Rare and valuable cargo
 - Deck cargo
- Extended Cargo Liabilities (Annual Cover)¹
- Extended Contractual Liabilities
- Extended Towage Liabilities
- Extended Through Transit Liabilities
- LNG Terminals Conditions of Use
- Liabilities arising pre- and post- Entry of the Ship
- Liabilities arising out of Salvage Services
- Specialist Operations
- Liabilities in respect of Superintendents, other Personnel and Crew
- War risks extension

Full details of the bespoke suite of insurances are available on the Association's website:

Publications \ Rule Books \ Additional Insurances 2020

¹ The first head of cover is in respect of breaches of the contract of carriage where cover can be provided on an individual breach basis; the second head of cover provides a more comprehensive range of cover but is only available as an annual policy.

IS THE COVERAGE OFFERED AS A 'MUTUAL' RISK?

By definition, no. The *Additional Insurances* offer cover for risks which are either excluded from mutual P&I cover or fall outside the scope of mutual P&I cover and therefore cannot be pooled under the Pooling Arrangements of the International Group of P&I Associations. The development of the package of *Additional Insurances* is predicated on separate, non-poolable reinsurance arrangements placed in the commercial market.

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IS THE COVERAGE ONLY AVAILABLE TO MEMBERS WITH SHIPS ENTERED UNDER THE RULES OF CLASS 3?

The Association's authority to offer non-poolable insurances stems from Rule 7 *Special Insurances* of the *Rules of Class 3*. However, the only requirement is that the party seeking insurance either is, or is to become, a Member of the Association including Assureds afforded cover under the Association's *Charterers' Liability Insurance*. Coverage can include a Member's interests in ships entered not only the Association but also those entered in other P&I Associations; and/or the Member's interest in other conveyances or indeed any other interest related to the management, employment or operation of ships.

HOW ARE THE ADDITIONAL INSURANCES STRUCTURED?

The *Additional Insurances* are in six parts:

- Part I RISKS COVERED
This establishes the general framework of the insurances, determines the *Certificate of Insurance* as the evidence of cover; and sets out the Association's position on costs and expenses and sue and labour
- Part II ADDITIONAL INSURANCES
These sections set out the scope of cover available to assureds.
- Part III EXTENSIONS TO COVER
This section extends the cover available under Parts I and II to include war risks
- Part IV EXCLUSIONS, LIMITATIONS AND WARRANTIES
This section sets out the necessary restrictions on the scope of cover provided under Parts I, II and III
- Part V CLAIMS
Describes the rights and responsibilities of the Assured and the Association with reference to claims.
- Part VI GENERAL TERMS & CONDITIONS
Describes the legal framework and background to the insurance.

Parts IV, V and VI draw heavily on the *Rules of Class 3* and help to ensure a consistency of approach in the Associations' management of cover whether it be for a Member under its *Rules of Class 3* or an Assured under its *Additional Insurances*.

HAS THE NATURE OF THE COVER CHANGED?

No. Cover terms for additional insurances have always been bespoke and there has been no intention to change the scope of cover given as part of this exercise (other than where the Association has discussed a particular change with you). However, compilation of the *Additional Insurances* has led to:

- More consistent wordings where the interest covered is essentially the same. This should help improve transparency and eliminate unintended differences. Assureds can continue to discuss variations of terms with the Association but from a more certain and uniform base.
- More consistent language in codifying the coverages offered. Wherever possible the Association has used the language of the *Rules of Class 3* so

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that there is greater harmony between the two.

**WILL I NOTICE
ANYTHING ELSE?**

As far as possible the Association intends to evidence these *Additional Insurances* in standalone *Certificates of Insurance* rather than as endorsements to a Member's *Certificate of Entry* or a Charterer's *Certificate of Insurance*. These insurances fall outside the Pooling Arrangements of the International Group of P&I Associations and good housekeeping requires that they are documented and recorded separately.

In addition, as the Club can now reference the *Additional Insurances* document on its website, it no longer needs to recite lengthy clauses in its evidence of cover; accordingly, the *Certificate of Insurance* should be briefer, more succinct than previous forms of evidence of cover and can focus on the variables in an Assured's cover.